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6  
7 IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

8 IN RE:  
9 ) No. 08-61570-11-RBK  
10 )  
YELLOWSTONE MOUNTAIN CLUB, LLC,  
et al., ) Jointly Administered with 08-61571,  
11 ) 08-61572, and 08-61573  
Debtors. )  
12 )  
13 )  
TIMOTHY L. BLIXSETH, ) Adversary No. 09-00014 and  
14 ) consolidated with Adversary  
Plaintiff, ) No. 09-00017  
15 )  
vs. )  
16 )  
MARC S. KIRSCHNER, TRUSTEE OF THE )  
YELLOWSTONE CLUB LIQUIDATING )  
TRUST, )  
17 )  
Defendant. )  
18 )

19 SPECIAL APPEARANCE FOR OPPOSITION TO MOTION FOR SANCTIONS FOR  
20 SPOILATION OF ELECTRONIC EVIDENCE

21 COMES NOW, Edra Blixseth, by and through her attorney of record, Gary S. Deschenes,  
22 and makes a special appearance in this Court due to the Motion that has been filed against them  
23 personally.

24 As the Court is aware, Mr. Blixseth and his counsel have made outrageous claims against  
25 Edra Blixseth, Gary Deschenes, Jory Russell, Sam Byrne, and others claiming a conspiracy and a  
26 spoliation of evidence. The only evidence that Mr. Blixseth has put forth in this Court is the  
27 partial testimony of the witness, Jory Russell, who admitted to deleting certain records which he  
28 also claimed were still on his laptop computer. Mr. Russell also has testified that neither Ms.

Blixseth, nor Mr. Deschenes ever told him to delete any records.

Regardless of the above, Ms. Blixseth and Gary Deschenes, as well as Jory Russell, are not parties to this action. Therefore, this counsel does not see any reason to respond to this Motion unless the Court so desires. This counsel and Ms. Blixseth only became aware of the filing of this Motion as Mr. Deschenes had put in an ECF notice when he earlier asked for a protective order regarding the deposition of Edra Blixseth. To this counsel's knowledge, neither Mr. Blixseth, nor his counsel, have bothered to inform Jory Russell that there is even such a Motion filed with the Court. It is obvious that this Motion was only filed in order to once again delay the trial in this matter. If Mr. Blixseth truly feels that he has a case against those he has accused, then he should file such an action so that those parties can properly defend themselves and bring proper counterclaims against Mr. Blixseth and whomever else was involved.

If the Court believes there is authority for those whom Mr. Blixseth has accused to respond in this Court, then Mr. Deschenes and Ms. Blixseth respectfully request the Court allow them additional time of thirty (30) days to send discovery on a shortened time period to Mr. Blixseth prior to their response. If, however, the Court agrees that the accused are not parties to this action, then they will not file anything further in this action.

DATED this 1st day of February, 2010.

## DESCHENES & SULLIVAN LAW OFFICES

BY:/s/ Gary S. Deschenes

Gary S. Deschenes  
Attorneys for Edra D. Blixseth